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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/644,134

08/20/2003

Anton Gaile

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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT

PAPER NUMBER

3683

MAIL DATE

DELIVERY MODE

09/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/644,134	<b>Applicant(s)</b> GAILE, ANTON	
	<b>Examiner</b> Lan Nguyen	<b>Art Unit</b> 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11-14, 16-18, 25 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-14, 25 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                  |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                             | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/14/08</u> . | 6) <input checked="" type="checkbox"/> Other: <u>drawings and specification</u> .       |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 6/19/08. Figures 1-4, 7 and 8 are approved. Figure 5 shows a different piston 400. Reference "340" in figure 6 should be --310--. Valves 800 in figure 9 show an incomplete drawing of valves 800. Therefore, figures 5, 6 and 9 are not approved.
2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the reasons stated above. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because of the use of legalese "means". Correction is required. See MPEP § 608.01(b).
5. The amendments to the specification submitted 6/19/08 are approved.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-7, 11-14, 25 and 27-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In claim 1, "the cylinder" should be --the strut cylinder--.
- In claim 4, line 11, "the cylinder" should be --the strut cylinder--.
- In claim 5, "cylinder head" should be --strut cylinder head--, two occurrences.
- Claim 7 repeats lines 7-9 of claim 27 and should be deleted.
- In claim 11, line 11, "the cylinder" should be --the strut cylinder--. Last two lines should be --adjusted in the direction of movement of the strut and which is supporting the strut piston.-- As shown in figure 2, the adjustment unit 80 is supporting the strut piston 30 via the pendulum support 120. Element 120 does not support the strut cylinder 40. As shown, element 120 is not being supported on the strut piston 30 or the strut cylinder 40.

- The last 5 lines of claim 12 should be -- in the direction of movement of the strut and which is supporting the strut piston, and wherein the adjustment unit includes a hydraulic cylinder piston introduced into a hydraulic cylinder, height-adjustable in the direction of movement of the strut, and supporting the strut piston.-- for the same reasons as stated above for claim 11.
- In claim 14, the last two lines should be --that is height adjusted in the direction of movement of the strut and which is supporting the strut piston.-- for the same reasons as stated above for claim 11.
- In claim 25, “the piston”, two occurrences, and “the cylinder” need to be --the strut piston--, two occurrences, and --the strut cylinder--.
- In claim 28, “the cylinder” needs to be --the strut cylinder--.
- In claim 29, lines 12-14 should be -- in the strut cylinder is adjusted or determined; wherein said height sensor or hydraulic height regulator valve is positioned above said strut piston and in a strut cylinder head mounted upon said strut cylinder, and--.

***Allowable Subject Matter***

8. Claims 1-7, 11-14, 25 and 27-30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
9. Claim 25 has been rejoined for depending from allowable claim 27.

10. Claims 16-18 have not been rejoined since claim 27 claims an auxiliary spring (element 20) while claims 16-18 claim another spring (element 500), in particular a coil spring or rubber spring. Claim 27 is not generic to embodiments shown in figures 5-9. Therefore, claims 16-18 could not be rejoined and should be cancelled.

### ***Response to Arguments***

11. Applicant's arguments, amendments to the claims, amendments to the specification and the new replacement drawings have overcome the 112, 1<sup>st</sup> rejection, some to the 112, 2<sup>nd</sup> rejection, objections to the drawings and the specification and the rejection based on Teichmann et al. However, as stated above, figures 5, 6 and 9 introduce new errors that require correction; the abstract has not been corrected and some of 112, 2<sup>nd</sup> issues have not been fixed.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Xuan Lan Nguyen/ 9/22/08  
Primary Examiner  
Art Unit 3683

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